

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Kazumoto KONDO et al.)	Group Art Unit: 2174
Application No.: 10/801,767)	
Filed: March 16, 2004)	Examiner: Brandon PARKER
For: INFORMATION PROCESSING SYSTEM,)	
INFORMATION PROCESSING)	Confirmation No.: 3421
APPARATUS AND METHOD,)	
RECORDING MEDIUM AND PROGRAM)	

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action mailed August 4, 2009. This Request is being filed concurrently with a Notice of Appeal.

REMARKS

In the Office Action¹, the Examiner rejected claims 13-30 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent Application Publication No. 2003/0220995 to Hitaka ("*Hitaka*") in view of U.S. Patent Application Publication No. 2002/0135621 to Angiulo ("*Angiulo*").

Applicants respectfully traverse the rejection of claims 13-30 under 35 U.S.C. § 103.

Independent claim 13 recites an information processing system comprising, among other things:

a first viewing apparatus comprising:
a first display unit . . . ; and

¹ The Office Action may contain any number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

a transmitting unit for transmitting a new thumbnail picture URL associated with the new thumbnail picture specified by the detecting unit to the second viewing apparatus; [and]
the second viewing apparatus comprising:
a second display unit . . . ; and
a receiving unit for receiving the new thumbnail picture URL transmitted by the transmitting unit of the first viewing apparatus, whereby the second display unit is refreshed to display the second cursor in a new location of a new thumbnail picture associated with the new thumbnail picture URL received from the first viewing apparatus.

(Emphasis added).

Applicants claim a method where movement of a first cursor on a first display is detected, and a new thumbnail picture is specified. A URL of the new thumbnail picture is then transferred to a device having a second display, which is then refreshed to display a second cursor on the second display at a new location of a new thumbnail picture associated with the URL.

Hitaka discloses a system in which a user can use a personal computer to send photos to a photo site and to order photos from a print site. ¶ [0125]. Upon receiving an order start confirmation, the print site acquires a thumbnail image from the photo site server. ¶ [0332]. After the thumbnail image is acquired, the print site displays the image select dialog 4400 shown in FIG. 43 in step S4207. ¶ [0332]. However, the dialog box is displayed on the display of the user's PC. See, ¶ [0128] ("The print site sends, to the user PC, a dialog used to display the acquired thumbnail image and prompt the user to input detailed print information"). The user can then use this dialog box to enter further details about the order. ¶ [0325].

The Examiner previously acknowledged, "*Hitaka* . . . does not explicitly show . . . a receiving unit for receiving the new thumbnail picture URL transmitted by the transmitting unit of the first viewing apparatus, whereby the second display unit is refreshed to display the second cursor in a new location of a new thumbnail picture associated with the new thumbnail picture URL received from the first viewing apparatus," and relied on *Angiulo* to remedy these deficiencies. (Office Action of February 6, 2009 at p. 3). In response to the Request for Reconsideration, the Examiner has changed his position and asserts that *Hitaka* does teach the claimed receiving unit. (Final Office Action at p. 2). Firstly, Applicants note that this *Hitaka*'s disclosure with respect to the claimed receiving unit was traversed in the appeal brief filed on November 12, 2008, and the arguments were found to be persuasive. (Office Action of February 6, 2009 at p. 2).

In the arguments with respect to *Hitaka*, the Office Action asserts that *Hitaka* discloses

“a photo site which provides services for storing image data received from the user PC 102A (first viewing apparatus), allowing the user or a third party designated by the user (second viewing apparatus) to browse stored image data” (Par. 0118, Par. 0116) wherein it is apparent the second viewing apparatus (i.e. user PC 102B) is refreshed with a cursor (i.e. via the image selected/album selected) (Fig. 29) wherein the album browsing: This service allows the user PC 102B to browse an album in the photo site server 105 (Par. 0185).

(Final Office Action at p. 2) However, even if this were true, which Applicants do not concede, claim 1 recites “receiving the new thumbnail picture URL transmitted by the transmitting unit of the first viewing apparatus, whereby the second display unit is refreshed to display the second cursor in a new location of a new thumbnail picture associated with the new thumbnail picture URL received from the first viewing apparatus.” (Emphasis added). Moreover, the transmitting unit of claim 1 “transmit[s] [the] new thumbnail picture URL . . . to the second viewing apparatus.” In contrast to the claimed invention, the element the Examiner equates to the first viewing apparatus simply stores image data on a photo site server where it can later be browsed by what the Examiner equates to the second viewing apparatus. *Hitaka* does not even disclose or suggest transmitting the image data from PC 102A to PC 102B.

Moreover, the mere assertion that “it is apparent the second viewing apparatus (i.e. user PC 102B) is refreshed with a cursor (i.e. via the image selected/album selected) (Fig. 29) wherein the album browsing” fails to consider the differences between the *Hitaka* and the claimed receiving unit. “The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP § 2141. However, even if the Examiner’s assertions are true, which Applicants do not concede, the Final Office Action fails to address the significant differences (*e.g.*, “refreshed to display the second cursor in a new location of a new thumbnail picture associated with the new thumbnail picture URL received from the first viewing apparatus” vs “refreshed with a cursor” and a first viewing apparatus sending image data to a photo site vs “transmitting a new thumbnail picture URL associated with the new thumbnail picture specified by the detecting unit to the second viewing apparatus”) between *Hitaka* and the claimed invention.

Angiulo does not cure the deficiencies of *Hitaka* for at least the following reasons.

Angiulo discloses a tool that enables a user to easily and automatically create a photo gallery of thumbnail images on a web page. (Abstract). In the Office Action of February 6, 2009, the Examiner asserted “[i]t is understood the first cursor is identified when the image is selected to be

dragged and the second cursor is refreshed when dropped in the new location. . . . Note that a first item in the list displayed, 'HOCKEY.JPG,' is shown as being highlighted, indicating that a user has selected that image, (Par. 0044), therefore the highlighted selected image is dragged into the second location (i.e. gallery window). It would have been obvious to one skilled in the art at the time of invention to combine the drag and drop feature as taught by Angiulo with the information processing system of Hitaka to efficiently transfer images from one apparatus to another.” However, even if this were true, which Applicants do not concede, dragging and dropping an image to a second window does not constitute a teaching of a method where movement of a first cursor on a first display is detected, and a new thumbnail picture is specified. A URL of the new thumbnail picture is then transferred to a device having a second display, which is refreshed to display a second cursor on the second display at a new location of a new thumbnail picture associated with the URL.

In the Final Office Action, the Examiner asserts that “[i]t is understood the images are uploaded from a PC to a website where another PC (i.e. viewing apparatus) will be able to highlight the images (Par. 0032, Par. 0044)[.] It is apparent the dragging and dropping of an image from a personal computer to a webpage makes it available to for selection for a remote computer (i.e. second viewing apparatus/display unit).” (Final Office Action at p. 2) Even if this were true, which Applicants do not concede, the Examiner makes the same error as discussed with respect to *Hitaka* above. That is, the Examiner maps the first and second viewing apparatus to a PC and another PC, and the Image data is uploaded from the first PC to a webserver (*i.e.*, not to the another PC). The Office Action does not even assert that the PC ever transmits the image data to the another PC. In contrast to *Angiulo*, the claim 1 recites “receiving the new thumbnail picture URL transmitted by the transmitting unit of the first viewing apparatus, whereby the second display unit is refreshed to display the second cursor in a new location of a new thumbnail picture associated with the new thumbnail picture URL received from the first viewing apparatus.” (Emphasis added). Moreover, the transmitting unit of claim 1 “transmit[s] [the] new thumbnail picture URL . . . to the second viewing apparatus.”

The mere assertion that “[t]here appears to be no apparent difference between selections/highlighting and the cursor of a personal computer image for display to a Webpage from a networking personal computer which makes the images available for display so both computers can display the images from the Web page and highlight/select the images” fails to consider the

differences between the *Angiulo* and the claimed receiving unit. As discussed above, “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP § 2141. However, even if the Examiner’s assertions are true, which Applicants do not concede, the Final Office Action fails to address the significant differences between *Angiulo* and the claimed invention.

Accordingly, *Hitaka* and *Angiulo*, alone or in combination, do not teach or suggest “a transmitting unit for transmitting a new thumbnail picture URL associated with the new thumbnail picture specified by the detecting unit to the second viewing apparatus” or “a receiving unit for receiving the new thumbnail picture URL transmitted by the transmitting unit of the first viewing apparatus, whereby the second display unit is refreshed to display the second cursor in a new location of a new thumbnail picture associated with the new thumbnail picture URL received from the first viewing apparatus” (emphasis added). Furthermore, the Final Office Action fails to address the significant differences between the claimed invention and the cited art. Indeed, as discussed above, there are several features for which the Final Office Action fail to make any statement that the cited references shows the feature. Accordingly, a *prima facie* case of obviousness has not been established, and the rejection should be withdrawn.

Independent claims 16, 19, 22, 25, and 28 distinguish over *Hitaka* and *Angiulo* for at least reasons similar to those given for claim 13. Dependent claims 14, 15, 17, 18, 20, 21, 23, 24, 26, 27, 29, and 30 are allowable at least due to their dependence from allowable base claims.

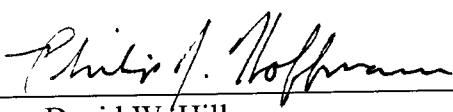
In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: November 4, 2009

By: 
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